

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

KENNETH HOWARD KERR, §
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Plaintiff, §
v. §
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LORIE DAVIS, DIRECTOR, TDCJ-CID, §
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Defendant. §
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Case No. 6:19-CV-198-JDK-JDL

ORDER ADOPTING REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

Plaintiff Kenneth Howard Kerr, an inmate proceeding *pro se*, filed the above-styled and numbered civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636. On January 17, 2020, the Magistrate Judge issued a Report and Recommendation (Docket No. 17), recommending that Defendant's motion to dismiss be granted. *Id.* at 8. Plaintiff filed objections on March 4, 2020. Docket No. 22.

In his objections, Plaintiff argues that Defendant is excluding “certain persons of a particular class while allowing others of the S3-G2 Offender Class to attend computer related trades.” Docket No. 22 at 5. Further, Plaintiff argues that “there is no justification of this practice and that it serves no legitimate interest of the State.” *Id.*

The Court overrules Plaintiff's objections. As the Magistrate Judge found, Plaintiff does not state an equal protection claim. "Inmates convicted of a sexual offense are not a suspect class, and thus any such classification is only subject to rational basis review." *Bell v. Woods*, 382 F. App'x 391, 392 (5th Cir. 2010). And there are "rational reasons why the State might restrict sexual

offenders from using computers. Such a restriction prevents sexual offenders from attempting to obtain and distribute sexually-explicit material over the Internet and contact potential victims over the internet.” *Id.* at 392–93. Plaintiff therefore does not state a constitutional violation.

Having made a *de novo* review of the objections raised by Plaintiff to the Magistrate Judge’s Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and Plaintiff’s objections are without merit. The Court therefore adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court.

Accordingly, it is hereby **ORDERED** that the Report and Recommendation (Docket No. 17) be **ADOPTED**. It is further

ORDERED that the above-styled civil action is **DISMISSED WITH PREJUDICE** for failure to state a claim upon which relief may be granted.

So **ORDERED** and **SIGNED** this 17th day of March, 2020.



JEREMY D. KERNODE
UNITED STATES DISTRICT JUDGE